

Serial No.: 10/026,122  
Amendment dated 23 May 2005  
Reply to Office Action mailed 22 February 2005

Docket No.: KCC-15,837

### **REMARKS**

This Patent Application has been reconsidered carefully in light of the Office Action dated as mailed on 22 February 2005. A careful reconsideration of the application by the Examiner in light of the foregoing amendments and the following remarks is respectfully requested.

This response is timely filed as it is filed within the three (3) month shortened statutory period for response to the outstanding Office Action.

There is no additional claim fee due for this Amendment because the total number of claims does not exceed the number of independent and dependent claims for which fees have previously been paid.

### **Request for Telephone Interview**

Applicants' undersigned attorney requests a telephone interview with the Examiner to discuss the merits of this Patent Application. The undersigned requests this interview if the amendments and arguments are not deemed sufficient to place this Patent Application in condition for allowance. If the Examiner feels the claims are not allowable for any reason, then please telephone the undersigned, Eric T. Krischke, at (847) 490-1400.

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### **Amendments to the Drawings**

The attached drawing sheets include changes to Figs. 1-8. These sheets replace the original sheets including Figs. 1-8.

Attachment: Replacement Sheets (Figs. 1-8)

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### **Amendments to the Claims**

By the above Amendment, independent claim 22 was amended to require the limitations of original dependent claim 24. Claim 22 was further amended to require the limitation the prefastened absorbent article has *a percent fit range of at least about 33%*.

Claim 24 was canceled.

Independent claim 28 was amended to require a *laterally extensible* outer cover, and a *laterally extensible* bodyside liner.

Independent claim 29 was amended to require *an extensible attachment panel, the outer cover, the waistband, the first elastic back ear, the second elastic back ear and the attachment panel providing a first fit range*. Claim 29 was further amended to require at least one secondary component *providing a second fit range not greater than about 150 mm less than the first fit range*.

Claims 1-23 and 25-37 remain in this Application. No new matter has been added to this Application by the above Amendment.

### **Drawings Objections**

The drawings were objected to as failing to comply with 37 CFR 1.83(a) for failing to show every feature of the invention specified in the claims. Applicants have amended Fig. 3 to indicate spacer layer 46 and pleats 86 in pleated tissue wrap

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80. Applicants have amended claim 15 to require a tissue wrapsheet rather than a surge layer, and claim 28 to require a fastening system rather than at least one waist size adjustment means.

The drawings were objected to for failing to comply with 37 CFR 1.84(p)(4) because reference character numbers "32" and "52" have allegedly both been used to designate a waist edge.

Reference character number "32" refers to a pair of longitudinally opposing waist edges 32 defined by the diaper 20 (Applicants' specification at page 18, lines 3-6) and reference character number "52" refers to the waist edge 52 of the fit panel 48 (Applicants' specification at page 30, line 21 through page 31, line 1). Applicants have amended Figs. 1-7 to better indicate waist edges 32.

The drawings were objected to for failing to comply with 37 CFR 1.84(p)(5) because they allegedly include reference character numbers, namely "72" and "74", not mentioned in the description.

Applicants have amended Fig. 8 to remove reference character numbers "72" and "74".

In view thereof, the objections to the drawings are believed overcome and notification to that effect is requested.

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**Claims Rejection - 35 U.S.C. § 112, second paragraph**

Claims 29-36 were rejected under 35 U.S.C. § 112, second paragraph because the phrase “additional fit range” in claim 29, lines 8-9, was alleged as rendering these claims unclear.

By the above Amendment, the phrase “additional fit range” was deleted in claim 29 and thus such rejection is believed to have been overcome. Notification to that effect is requested.

**Claims Rejections - 35 U.S.C. § 102(b)**

Claims 1-6, 16, 17, 22 and 23 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,370,634 to Ando et al. (hereinafter “Ando”). This rejection is respectfully traversed, particularly in view of the above Amendment and the following remarks.

The Examiner alleges that Ando discloses the claimed absorbent structure of claims 1 and 22. The Examiner also alleges that Ando, at Col. 4, lines 11-26 and in the figures, discloses an absorbent article having a percent fit range of at least about 33%. The Examiner contends that the claimed fit range is a product by process limitation that does not lend anything structurally to the claim. Applicants do not agree with the Examiner’s contention that the claimed percent fit range is a product by process limitation that does not lend anything structurally to the claim.

Applicants' invention as claimed in independent claim 1 requires an outer cover that is extensible in a lateral direction of the absorbent article, and a bodyside liner at least partially bonded to the outer cover and extensible in the lateral direction. Applicants' invention as claimed in amended independent claim 22 requires an outer cover that is extensible or elastic in a lateral direction of the absorbent article, and a bodyside liner at least partially bonded to the outer cover and extensible or elastic in the lateral direction. The absorbent article of the claimed invention has a percent fit range of at least about 33%.

Ando does not disclose each and every element or limitation of independent claims 1 and/or 22, as required for a reference to anticipate a claim under 35 U.S.C. § 102. Ando does not teach or suggest a **prefastened** absorbent article having an outer cover that is **extensible in a lateral direction** or **elastic in a lateral direction** of the absorbent article, and a bodyside liner at least partially bonded to the outer cover and **extensible in a lateral direction** or **elastic in the lateral direction**, as required by Applicants' claimed invention. Further, Ando does not teach or suggest an absorbent article having a percent fit range of at least about 33%, as required by Applicants' claimed invention.

Ando discloses that film materials suitable as a backsheet or bodyside liner can be stretched to make the film material permeable. Ando teaches stretching

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the film in the machine or longitudinal direction. Such stretching does not make the film material extensible or elastic in the lateral direction, as in Applicants' claimed invention. As discussed in Applicants' specification, providing extensibility or elasticity in the lateral direction improves the prefasted absorbent article's fit range. See Applicants' specification at page 15, line 14 through page 17, line 2, and the Example.

Claims 2-6, 16 and 17 depend from and further limit independent claim 1; and claim 23 depends from and further limits independent claim 22.

Thus, the above Amendment and remarks overcome the rejection of claims 1-6, 16, 17, 22 and 23 as being anticipated by Ando. Accordingly, Applicants respectfully request withdrawal of this rejection.

Claims 1-3, 10-12, 15-17, 22, 23 and 26-28 were rejected under 35 U.S.C. § 102(b) as being anticipated by PCT International Application WO 99/55265 to Arndt et al. (hereinafter "Arndt"). This rejection is respectfully traversed, particularly in view of the above Amendment and the following remarks.

The Examiner alleges that Arndt discloses the claimed absorbent structure of claims 1, 22 and 28. The Examiner also alleges that Arndt, at page 9, first paragraph, discloses an absorbent article having a percent fit range of at least about 33%. The Examiner contends that the claimed fit range is a product by process

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limitation that does not lend anything structurally to the claim. Applicants do not agree with the Examiner's contention that the claimed percent fit range is a product by process limitation that does not lend anything structurally to the claim.

Applicants' invention as claimed in independent claim 1 requires an outer cover that is extensible in a lateral direction of the absorbent article, and a bodyside liner at least partially bonded to the outer cover and extensible in the lateral direction. Applicants' invention as claimed in amended independent claim 22 requires an outer cover that is extensible or elastic in a lateral direction of the absorbent article, and a bodyside liner at least partially bonded to the outer cover and extensible or elastic in the lateral direction. Applicants' invention as claimed in amended independent claim 28 requires a laterally extensible outer cover, and a laterally extensible bodyside liner connected to the outer cover in a superposed relation. The absorbent article of the claimed invention has a percent fit range of at least about 33%.

Arndt does not disclose each and every element or limitation of independent claims 1, 22 and/or 28, as required for a reference to anticipate a claim under 35 U.S.C. § 102. Arndt does not teach or suggest a **prefastened** absorbent article having an outer cover that is **extensible in a lateral direction** or **elastic in a lateral direction** of the absorbent article, and a bodyside liner at least partially



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bonded to the outer cover and **extensible in a lateral direction** or **elastic in the lateral direction**, as required by Applicants' claimed invention. Arndt does not teach or suggest an absorbent article having a percent fit range of at least about 33%, as required by Applicants' claimed invention.

Arndt discloses that backsheets may be formed using film materials that are stretched to make microporous films. The film materials are mechanically stretched to a permanent condition thereby creating small cracks around filler materials. Microporous films allow gas molecules to pass through the film, but such stretching does not make the films extensible or elastic in the lateral direction, as in Applicants' claimed invention.

Claims 2, 3, 10-12 and 15-17 depend from and further limit independent claim 1; and claim 23, 26 and 27 depend from and further limit independent claim 22.

Thus, the above Amendment and remarks overcome the rejection of claims 1-3, 10-12, 15-17, 22, 23 and 26-28 as being anticipated by Arndt. Accordingly, Applicants respectfully request withdrawal of this rejection.

#### **Claims Rejection - 35 U.S.C. § 103(a)**

Claims 7-9, 13, 14, 24 and 25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ando. This rejection is respectfully traversed, particularly in view of the above Amendment and the following remarks.

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Claims 7-9, 13 and 14 depend from and further limit amended independent claim 1. Claims 24 and 25 depend from and further limit amended independent claim 22. As discussed above, Ando does not teach or suggest a prefastened absorbent article having an outer cover that is extensible in a lateral direction or elastic in a lateral direction of the absorbent article, and a bodyside liner at least partially bonded to the outer cover and extensible in a lateral direction or elastic in the lateral direction, as required by Applicants' claimed invention. Further, Ando does not teach or suggest an absorbent article having a percent fit range of at least about 33%, as required by Applicants' claimed invention.

Applicants respectfully submit that Ando does not render Applicants' claimed invention obvious in the manner required by 35 U.S.C. § 103. Thus, Applicants respectfully request withdrawal of the rejection of claims 7-9, 13, 14, 24 and 25 under 35 U.S.C. § 103(a) as being unpatentable over Ando.

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### **Conclusion**

It is believed that the above Amendment places all pending claims in condition for allowance and notification to that effect is solicited. However, should the Examiner detect any remaining issue or have any question, the Examiner is kindly requested to contact the undersigned, preferably by telephone, in an effort to expedite examination of this Patent Application.

Respectfully submitted,



Eric T. Krischke  
Registration No. 42,769

Pauley Petersen & Erickson  
2800 West Higgins Road  
Suite 365  
Hoffman Estates, Illinois 60195  
TEL (847) 490-1400  
FAX (847) 490-1403

Attachments